FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
NAGPUR BENCH, NAGPUR

Second Appeal No. 125/2007

Appeal	District :
Application No.	of 200
Writ petition	

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders

CORAM : Smt. V. A. Naik, J.
DATED : April 13, 2007.

Heard Shri Mardikar for the appellant.

The appellant is the original defendant no. 3. A suit was filed by the plaintiff/respondent no.1 against the defendants for possession of the suit property. According to the plaintiff, she had valid title to the suit property as she had purchased the same by a sale deed dated 24/12/1996. The suit property was auctioned by the Income Tax Department on 20/11/1996 and in the said auction, a sale certificate was issued in favour of the plaintiff on 20/11/1996. As stated herein above, thereafter the sale deed was executed on 24/12/1996. The plaintiff applied for possession of the property on 29/2/1997 and the possession of the property was delivered to the plaintiff on 18/3/1997. It is the case of the plaintiff that the defendant nos. 1 and 2 forcibly took possession of the suit property in the afternoon on 18/3/1997 itself and inducted the

defendant no.3 in the suit property.

The claim of the plaintiff was denied by the defendants. It was specifically pleaded by the defendant no.3 that he was the tenant in the suit property and could not have been evicted by the plaintiff without taking recourse to the provisions of Rent Control Act.

The main issue before the trial Court was as to whether the plaintiff was the owner of the suit property and as to whether the defendant no.3 was a tenant in the suit property. The trial Court, after appreciating the material evidence on record, held that the plaintiff had proved her title over the suit property. The trial Court further held that the defendant no.3 was not inducted as a tenant in the suit property prior to 18/3/1997. Though two rent receipts were produced by the defendant no.3 to prove his tenancy, the trial Court weighed the evidentiary value of these rent receipts along with the other oral and documentary evidence tendered by the parties on record to hold that the defendant no.3 had failed to prove his tenancy rights in the suit property. The findings recorded by the trial Court were upheld by the first appellate Court in an appeal filed by the defendant no.3. The appellate Court re-appreciated the evidence tendered by the parties on record to confirm the findings recorded by the trial Court.

The findings recorded by both the Courts are pure findings of facts based on the proper appreciation of the evidence on record. No perversity could be found with the findings recorded by both the Courts. Since no substantial question of law arises for consideration in this second appeal, same is dismissed with no order as to costs.

JUDGE

RMP